

CFDA No. 84.116J, 84.116M, and 84.116N.

Withdrawal of Notices inviting applications for new awards for Fiscal Year (FY) 2011; European Union-United States Atlantis (Atlantis) Program; U.S.-Brazil Higher Education Consortia (U.S.-Brazil) Program; and the North American Mobility in Higher Education (NAM) Program.

**SUMMARY:** On April 1, 2011 (76 FR 18198) (Atlantis); March 29, 2011 (76 FR 17391) (U.S.-Brazil); and March 25, 2011 (76 FR 16743) (NAM), the Department published in the **Federal Register** notices inviting applications for new awards for each of the programs identified. On April 15, 2011, the President signed Public Law 112-10, the Department of Defense and Full-Year Continuing Appropriations Act, 2011, which substantially reduced funds available for the Department's Higher Education account. This account is the source of funding for grants in these programs under the Fund for the Improvement of Postsecondary Education. Therefore, no new grants will be made under the Atlantis, U.S.-Brazil, or NAM programs in FY 2011. As such, the Department withdraws these notices inviting applications for new awards for FY 2011.

**Program Authority:** 20 U.S.C. 1138-1138d.

**FOR FURTHER INFORMATION CONTACT:**

*For information on Atlantis, International and Foreign Language Education (IFLE):* Tanyelle Richardson, U.S. Department of Education, 1990 K Street, NW., room 6099, Washington, DC 20006-8521. Telephone: (202) 502-7626 or by e-mail: [tanyelle.richardson@ed.gov](mailto:tanyelle.richardson@ed.gov).

*For information on U.S.-Brazil, IFLE:* Michelle Guilfoil, U.S. Department of Education, 1990 K Street, NW., room 6098, Washington, DC 20006-8521. Telephone: (202) 502-7625 or by e-mail: [michelle.guilfoil@ed.gov](mailto:michelle.guilfoil@ed.gov).

*For information on NAM, IFLE:* Amy Wilson, U.S. Department of Education, 1990 K Street, NW., room 6082, Washington, DC 20006-8521. Telephone: (202) 502-7689 or by e-mail: [amy.wilson@ed.gov](mailto:amy.wilson@ed.gov).

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Dated: July 18, 2011.

**Eduardo M. Ochoa,**

*Assistant Secretary for Postsecondary Education.*

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**BILLING CODE 4000-01-P**

**DEPARTMENT OF EDUCATION**

**Arbitration Panel Decision Under the Randolph-Sheppard Act**

**AGENCY:** Department of Education.

**ACTION:** Notice of arbitration panel decision under the Randolph-Sheppard Act.

**SUMMARY:** The Department of Education (Department) gives notice that on March 18, 2011, an arbitration panel rendered a decision in the matter of *Sam Tocco v. Michigan Commission for the Blind, Case no. R-S/08-6*. This panel was convened by the Department under 20 U.S.C. 107d-1(a), after the Department received a complaint filed by the petitioner, Sam Tocco.

**FOR FURTHER INFORMATION CONTACT:** You can obtain a copy of the full text of the arbitration panel decision from Suzette E. Haynes, U.S. Department of Education, 400 Maryland Avenue, SW., Room 5022, Potomac Center Plaza, Washington, DC 20202-2800. Telephone: (202) 245-7374. If you use a telecommunications device for the deaf (TDD), call the Federal Relay Service (FRS), toll-free, at 1-800-877-8339.

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**SUPPLEMENTARY INFORMATION:** Under section 6(c) of the Randolph-Sheppard Act (Act), 20 U.S.C. 107d-2(c), the Secretary publishes in the **Federal Register** a synopsis of each arbitration panel decision affecting the administration of vending facilities on Federal and other property.

**Background**

Sam Tocco (Complainant) alleged violations by the Michigan Commission for the Blind, the State licensing agency (SLA), under the Act and its implementing regulations in 34 CFR part 395. Complainant alleged that the SLA violated the Act, the implementing regulations, and State rules and regulations by terminating his vending operator's license at the United States Postal Service's Pontiac vending route (Pontiac vending route).

Specifically, Complainant became a Randolph-Sheppard vendor in 2003. Beginning in 2006, he was promoted to the Pontiac vending route. In August and December 2006, the SLA was prepared to revoke Complainant's operating license for a variety of reasons that were not relevant to the subject arbitration. In August 2006, Complainant signed a probationary agreement with the SLA.

However, in the later part of 2007, Complainant again experienced compliance issues and the SLA and Complainant entered into another probationary agreement on September 19, 2007 (2007 probationary agreement), to resolve various outstanding issues. On January 15, 2008, the SLA informed Complainant that he had violated the terms of the 2007 probationary agreement and revoked his operating license, effective January 24, 2008, for failure to pay an annual health license fee.

Complainant then requested a full evidentiary hearing from the SLA on this matter. However, the SLA asserted that Complainant waived his right to an evidentiary hearing and other due process protections by signing the 2007 probationary agreement. Shortly thereafter, Complainant filed another request with the SLA for a full evidentiary hearing. On January 23, 2008, the SLA again denied Complainant's request for an evidentiary hearing.

On March 10, 2008, Complainant's representative filed a request with the Department to convene a Federal arbitration panel. On March 26, 2008, the Department responded to Complainant's request informing Complainant and the SLA that, while Complainant did not qualify for arbitration as he had not been provided

a full evidentiary hearing. Complainant had a statutory right to a full evidentiary hearing. The Department directed the SLA to schedule a full evidentiary and informed Complainant's representative if, after the full evidentiary had been conducted Complainant was still dissatisfied with the results, he could resubmit his request for Federal arbitration.

On September 3, 2008, the SLA provided Complainant a full evidentiary hearing conducted before an Administrative Law Judge (ALJ). On October 30, 2008, the ALJ issued her decision finding that Complainant was in compliance with the 2007 probationary agreement and also finding that his failure to pay the health license fee did not constitute a violation. As a remedy, the ALJ recommended that the SLA reinstate Complainant's operating license and that he be assigned a suitable vending location as soon as possible. In noting that Complainant had significant difficulties in the operation of the Pontiac vending route, the ALJ also recommended, without assigning any fault to Complainant or the SLA, that Complainant be assigned a better established and less demanding vending route.

On December 12, 2008, the SLA reviewed the ALJ's decision. The SLA adopted in part and rejected in part the ALJ's recommendations as final agency action. Specifically, the SLA accepted the recommendation to reinstate Complainant's operating license but rejected the ALJ's recommendation to assign Complainant to a suitable site that was a better established or less demanding route. Instead, the SLA required that Complainant bid on a vending location in accordance with existing SLA transfer and promotion rules and regulations.

On February 17, 2009, Complainant's representative again filed a request for Federal arbitration, alleging that the final agency action by the SLA did not provide an adequate remedy for the harm Complainant had incurred from the revocation of his operating license. On April 29, 2010, a Federal arbitration hearing was held.

#### Arbitration Panel Decision

After reviewing all of the evidence and testimony, the panel unanimously ruled that Complainant was entitled to receive a priority bid. Thus, the panel directed the SLA to waive the existing conditions governing the award of vending facilities and to consider Complainant the successful bidder on any vending facility or vending route for which he would be qualified and certified for a period of 12 months

commencing with the date of the panel's decision. This ruling was considered "an extraordinary remedy" by the panel, based upon the specific circumstances of Complainant's case in which he lost his previous vending route as a result of the erroneous license revocation. The panel clearly indicated, however, that this case should not serve as a precedent for future cases because of these unique circumstances. Also, the panel denied the remedies requested by Complainant with respect to compensatory damages, punitive or exemplary damages, and restoration of Complainant's retirement benefits to his program pension plan.

The views and opinions expressed by the panel do not necessarily represent the views and opinions of the Department.

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Dated: July 18, 2011.

**Alexa Posny,**

*Assistant Secretary for Special Education and Rehabilitative Services.*

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**BILLING CODE 4000-01-P**

## DEPARTMENT OF EDUCATION

[CFDA No. 84.116K]

### Funding Down Slate; Training for Real-Time Writers (TRTW) Program

**AGENCY:** Office of Postsecondary Education, Department of Education.

**ACTION:** Notice of intent to fund down the grant slate from fiscal year (FY) 2010.

**SUMMARY:** The Secretary intends to use the grant slate developed in FY 2010 for the TRTW Program authorized by Section 872 of the Higher Education Act of 1965, as amended (HEA), 20 U.S.C.

1161s, to make new grant awards in FY 2011. The Secretary takes this action because a significant number of high-quality applications remain on the FY 2010 grant slate and limited funding is available for new grant awards in FY 2011. Specifically, we expect to use an estimated \$998,000 for new awards in FY 2011.

**FOR FURTHER INFORMATION CONTACT:** Erin McDermott, U.S. Department of Education, 1990 K Street, NW., Room 6161, Washington, DC 20006-8524. *Telephone:* (202) 502-7607 or via *Internet:* [Erin.McDermott@ed.gov](mailto:Erin.McDermott@ed.gov).

If you use a telecommunications device for the deaf (TDD), call the Federal Relay Service (FRS), toll free, at 1-800-877-8339.

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#### SUPPLEMENTARY INFORMATION:

#### Background

On July 2, 2010, we published a notice in the **Federal Register** (75 FR 38510) inviting applications for FY 2010 for new awards under the TRTW Program (FY 2010 NIA).

In response to the FY 2010 NIA, we received a significant number of high-quality applications for grants under the TRTW Program and made four grant awards. Because such a large number of high-quality applications were received, many applications that received high scores by peer reviewers did not receive funding.

To conserve funding that would be required for a peer review of new grant applications submitted under this program and to instead use those funds to support grant activities, we will select grantees in FY 2011 from the existing slate of applicants developed during the FY 2010 competition using the priority, selection criteria, and application requirements referenced in the **Federal Register** notice published on July 2, 2010.

**Program Authority:** 20 U.S.C. 1161s.

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